रजिस्ट्री सं. डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 54] नई दिल्ली, मंगलवार, दिसम्बर 2, 1986/अग्रहायण 11, 1908
No. 54] NEW DELHI, TUESDAY, DECEMBER 2, 1986/AGRAHAYANA 11, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 2nd December, 1986:—

BILL NO. 141 OF 1986

A Bill further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Factories (Amendment) Act, 1986.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Amendment of section 2.

63 of 1948.

2. In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

(*i*) after clause (*c*), the following clauses shall be inserted, namely:—

'(*ca*) "competent person", in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to—

(*i*) the qualifications and experience of the person and facilities available at his disposal; or

(*ii*) the qualifications and experience of the persons employed in such institution and facilities available therein,

with regard to the conduct of such tests, examinations and inspections and more than one person or institution can be recognised as a competent person in relation to a factory;

(*cb*) "hazardous process" means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would—

(*i*) cause material impairment to the health of the persons engaged in or connected therewith, or

(*ii*) result in the pollution of the general environment:

Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of, any industry specified in the said Schedule.';

(*ii*) in clause (*m*),—

(*a*) the existing *Explanation* shall be numbered as *Explanation I* and in *Explanation I* as so numbered, for the words "different relays", the words "different groups and relays" shall be substituted;

(*b*) after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation II.*—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof.";

(*iii*) in clause (*n*),—

(*a*) in the opening paragraph, the portion beginning with the words ", and where the said affairs", and ending with the words "occupier of the factory" shall be omitted;

(*b*) before the proviso, the following proviso shall be inserted, namely:—

"Provided that—

(*i*) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

(*ii*) in the case of a company, any one of the director, shall be deemed to be the occupier;

(*iii*) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier";

(*c*) in the existing proviso,—

(*i*) for the words "Provided that", the words "Provided further that" shall be substituted;

(*ii*) in sub-clause (*a*) of clause (*1*), after the word and figure "section 7,", the words, figures and letters "section 7A, section 7B," shall be inserted;

(*iv*) clause (o) shall be omitted;

(*v*) in clause (*r*), for the word '"relay"', the words '"group" or "relay"' shall be substituted;

Amendment of section 4.

3 In section 4 of the principal Act,—

(*a*) after the words "The State Government may,", the words "on its own motion or" shall be inserted;

(*b*) after the words "in writing", the words "and subject to such conditions as it may deem fit" shall be inserted;

(*c*) the following proviso shall be added, namely:—

"Provided that no order under this section shall be made by the State Government on its own motion unless an opportunity of being heard is given to the occupier.".

Insertion of new sections 7A and 7B.

4. In Chapter II of the principal Act, after section 7, the following sections shall be inserted, namely:—

General duties of the occupier.

'7A. (*1*) Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the matters to which such duty extends, shall include—

(*a*) the provision and maintenance of plant and systems of work in the factory that are safe and without risks to health;

(*b*) the arrangements in the factory for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work;

(*d*) the maintenance of all places of work in the factory in a condition that is safe and without risks to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risks;

(*e*) the provision, maintenance or monitoring of such working environment in the factory for the workers that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.

(*3*) Except in such cases as may be prescribed, every occupier shall prepare, and, as often as may be appropriate, revise, a written statement of his general policy with respect to the health and safety of the workers at work and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the

Statement and any revision thereof to the notice of all the workers in such manner as may be prescribed.

General duties of manufacturers etc., as regards articles and substances for use in factories.

7B. (1) Every person who designs, manufactures, imports or supplies any article for use in any factory shall—

(a) ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to the health of the workers when properly used;

(b) carry out or arrange for the carrying out of such tests and examination as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take such steps as may be necessary to ensure that adequate information will be available—

(i) in connection with the use of the article in any factory;

(ii) about the use for which it is designed and tested; and

(iii) about any conditions necessary to ensure that the article, when put to such use, will be safe, and without risks to the health of the workers:

Provided that where an article is designed or manufactured outside India, it shall be obligatory on the part of the importer to see—

(a) that the article conforms to the same standards if such article is manufactured in India, or

(b) if the standards adopted in the country outside for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards.

(2) Every person, who undertakes to design or manufacture any article for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to the health or safety of workers to which the design or article may give rise.

(3) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(4) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(5) Where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

(6) For the purposes of this section, an article is not to be regarded as properly used if it is used without regard to any information or advice relating to its use which has been made available by the person who has designed, manufactured, imported or supplied the article.

Explanation.—For the purposes of this section, "article" shall include plant and machinery.'.

Amendment of section 9.

5. In section 9 of the principal Act,—

(*i*) in clause (*a*), after the words "other public authority,", the words "or with an expert" shall be inserted;

(*ii*) for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) make examination of the premises, plant, machinery, article or substance;

(c) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;

(*d*) require the production of any prescribed register or any other document relating to the factory;

(*e*) seize, or take copies of, any register, record of other document or any portion thereof, as he may consider necessary in respect of any offence under this Act, which he has reason to believe, has been committed;

(*f*) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (*b*);

(*g*) take measurement and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (*b*), taking with him any necessary instrument or equipment;

(*h*) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(*i*) exercise such other powers as may be prescribed.".

Amendment of section 13.

6. In section 13 of the principal Act,—

(*a*) in sub-section (2), for the portion beginning with the words "a thermometer" and ending with the words "as may be specified.", the following shall be substituted, namely:—

"proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) If it appears to the Chief Inspector that excessively high temperatures in any factory can be reduced by the adoption of suitable measures, he may, without prejudice to the rules made under sub-section (*2*), serve on the occupier, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.".

Amendment of section 16.

7. In section 16 of the principal Act, in sub-section (*2*),—

(*a*) for the words "three hundred and fifty cubic feet", the figures and words "9.9 cubic metres" shall be substituted;

(*b*) for the words "five hundred cubic feet", the figures and words "14.2 cubic metres" shall be substituted;

(c) for the words "fourteen feet", the figures and word "4.2 metres" shall be substituted.

Amendment of section 18.

8. In section 18 of the principal Act, in sub-section (*2*), for the words "twenty feet of any washing place, urinal or latrine", the words "six metres of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination" shall be substituted.

Amendment of section 19.

9. In section 19 of the principal Act, in sub-section (*2*), in clause (*b*), for the words "three feet", the words "ninety centimetres" shall be substituted.

Amendment of section 23.

10. In section 23 of the principal Act, in sub-section (*1*), for the words "shall work", the words "shall be required or allowed to work" shall be substituted.

Amendment of section 25.

11. In section 25 of the principal Act, for the words "eighteen inches", the words "forty-five centimetres" shall be substituted.

Amendment of section 28.

12. In section 28 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.".

Amendment of section 29.

13. In section 29 of the principal Act,—

(*i*) in sub-section (*1*), in clause (*c*), for the words "twenty feet", the words "six metres" shall be substituted;

(*ii*) in the *Explanation*, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "lifting tackle" means any chain sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance,

whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines.".

Amendment of section 30.

14. In section 30 of the principal Act, in sub-section (*1*), for the words "In every room in a factory", the words "In every factory" shall be substituted.

Amendment of section 31.

15. In section 31 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) If in any factory, any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceeded.".

Amendment of section 32.

16. In section 32 of the principal Act, for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) when any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.".

Substitution of new section for section 36.

17. For section 36 of the principal Act, the following section shall be substituted, namely:—

Precautions against dangerous fumes, gases, etc.

"36. (*1*) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(*2*) No person shall be required or allowed to enter any confined space as is referred to in sub-section (*1*), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present, so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless—

(*a*) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or

(*b*) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.".

Amendment of section 36A.

18. In section 36A of the principal Act, in clause (*a*), after the words "or other [illegible]", the words "unless adequate safety devices are provided" shall be inserted.

Substitution of new section for section 38.

19. For section 38 of the principal Act, the following section shall be substituted, namely:—

Precautions in case of fire.

"38. (*1*) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain—

(*a*) safe means of escape for all persons in the event of a fire, and

(*b*) the necessary equipment and facilities for extinguishing fire.

(*2*) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(*3*) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (*1*) and (*2*).

(*4*) Notwithstanding anything contained in clause (*a*) of sub-section (*1*) or sub-section (*2*), if the Chief Inspector, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, is of the opinion that the measures provided in the factory, whether as prescribed or not, for the purposes of clause (*a*) of sub-section (*1*) or sub-section (*2*), are inadequate, he may, by order in writing, require that such additional measures as he may consider reasonable and necessary, be provided in the factory before such date as is specified in the order.".

Insertion of new Chapter IVA.

20. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

"CHAPTER IVA

PROVISIONS RELATING TO HAZARDOUS PROCESSES

Constitution of Site Appraisal Committees.

41A. (*1*) The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of—

(*a*) the Chief Inspector of the State who shall be its Chairman;

(*b*) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(*c*) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981;

14 of 1981.

(*d*) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(*e*) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981;

14 of 1981.

(*f*) a representative of the Department of Environment in the State;

(*g*) a representative of the Meteorological Department of the Government of India;

(*h*) an expert in the field of occupational health; and

(*i*) a representative of the Town Planning Department of the State Government,

and not more than five other members who may be co-opted by the State Government who shall be—

(*i*) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,

(*ii*) a representative of the local authority within whose jurisdiction the factory is to be established, and

(*iii*) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or a company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

(5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution)

Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. 6 of 1974. 14 of 1981.

Compulsory disclosure of information by the occupier.

41B. (*1*) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority within whose jurisdiction the factory is situated and the general public in the vicinity.

(*2*) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector and the local authority and, thereafter, at such intervals as may be prescribed, inform the Chief Inspector and the local authority of any change made in the said policy.

(*3*) The information furnished under sub-section (*1*) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(*4*) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall,—

(*a*) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1986, within a period of thirty days of such commencement; and

(*b*) if such factory proposes to engage in a hazardous process at any time after such commencement, within a period of thirty days before the commencement of such process,

inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

(*6*) Where any occupier of a factory contravenes the provisions of sub-section (*5*), the licence issued under section 6 to such factory shall, notwithstanding any penalty to which the occupier or factory shall be subjected to under the provisions of this Act, be liable for cancellation.

(*7*) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed among the workers and the general public living in the vicinity.

Specific responsibility of the occupier in relation to hazardous processes.

41C. Every occupier of a factory involving any hazardous process shall—

(*a*) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(*b*) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(*c*) provide for medical examination of every worker—

(*a*) before such worker is assigned to a job involving the handling of, a working with, a hazardous substance, and

(*b*) while continuing in such job, and after he has ceased to work in such job at intervals not exceeding twelve months, in such manner as may be prescribed.

Power of Central Government to appoint Inquiry Committee.

41D. (*1*) **The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.**

(*2*) **The Committee appointed under sub-section (*1*) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government according to the requirements of the situation.**

(*3*) **The recommendations of the Committee shall be advisory in nature.**

Emergency standards.

41E (*1*) **Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director-General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.**

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Act, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

Permissible limits of exposure of chemical and toxic substances.

41F. (1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

(2) The Central Government may, at any time, for the purpose or giving effect to any scientific proof obtained from specialised institutions or experts in the field, by notification in the Official Gazette, make suitable changes in the said Schedule.

Workers' participation in safety management.

41G. (1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, set up a Safety Committee consisting of equal number of representatives of workers and management to promote cooperation between the workers and the management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf:

Provided that the State Government may by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up such Committee.

(2) The composition of the Safety Committee, the tenure of office of its members and their rights and duties shall be such as may be prescribed.

Right of workers to warn about imminent danger.

41H. (1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector.

(2) It shall be the duty of such occupier, agent, manager or the person incharge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the nearest Inspector.

(3) If the occupier, agent, manager or the person incharge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the nearest Inspector whose decision on the question of the existence of such imminent danger shall be final.".

Amendment of section 64.

21. In section 64 of the principal Act, in the proviso to sub-section (1), for the words "does not exceed rupees seven hundred and fifty per month", the words, brackets and figures "does not exceed the wage limit specified in sub-section (6) of section 1 of the Payment of Wages Act 1936, as amended from time to time" shall be substituted. 4 of 1936.

Amendment of section 70.

22. In section 70 of the principal Act,—

(*a*) in sub-section (*1*), the proviso and the *Explanation* shall be omitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) No female adolescent or a male adolescent who has not attained the age of seventeen years but who has been granted a certificate of fitness to work in a factory as an adult, shall be required or allowed to work in any factory except between 6 A.M. and 7 P.M.:

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories,—

(*i*) vary the limits laid down in this sub-section so, however, that no such section shall authorise the employment of any female adolescent between 10 P.M. and 5 A.M.;

(*ii*) grant exemption from the provisions of this sub-section in case of serious emergency where national interest is involved.".

Amendment of section 71.

23. In section 71 of the principal Act, after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) No female child shall be required or allowed to work in any factory except between 8.00 A.M. and 7.00 P.M.".

Amendment of section 80.

24. In section 80 of the principal Act, in sub-section (*1*),—

(*a*) for the words "shall be paid", the words "shall be entitled to wages" shall be substituted;

(*b*) the following proviso shall be inserted, namely:—

"Provided that in the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave, in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of foodgrains and other articles.".

Amendment of section 87.

25. In section 87 of the principal Act, clause (*g*) shall be omitted.

Insertion of new section 87-A.

26. After section 87 of the principal Act, the following section shall be inserted, namely:—

Power to prohibit employment on account of serious hazard.

"87A. (*1*) Where it appears to the Inspector that conditions in a factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such

serious hazard and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed.

(2) Any order issued by the Inspector under sub-section (1) shall have effect for a period of three days until extended by the Chief Inspector by a subsequent order.

(3) Any person aggrieved by an order of the Inspector under sub-secion (1), and the Chief Inspector under sub-section (2), shall have the right to appeal to the High Court.

(4) Any person whose employment has been affected by an order issued under sub-section (1), shall be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible and in the manner prescribed.

(5) The provisions of sub-section (4) shall be without prejudice to the rights of the parties under the Industrial Disputes Act, 1947.". 14 of 1947.

Amendment of section 89.

27. In section 89 of the principal Act,—

(*i*) for the words "the Schedule", wherever they occur, the words "the Third Schedule" shall be substituted;

(*ii*) in sub-section (4), for the words "fifty rupees", the words "one thousand rupees" shall be substituted;

(*iii*) after sub-section (4), the following sub-section shall be added, namely:—

"(5) The Central Government may, by notification in the Official Gazette, add to or alter the Third Schedule and any such addition or alteration shall have effect as if it had been made by this Act.".

Amendment of section 90.

28. In section 90 of the principal Act, in sub-section (1), for the words "the Schedule", the words "the Third Schedule" shall be substituted.

Amendment of section 91A.

29. In section 91A of the principal Act, after sub-section (3), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this section, the report, if any, submitted to the State Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector under this Act.".

Amendment of section 92.

30. In section 92 of the principal Act,—

(*a*) for the words "three months", the words "two years" shall be substituted;

(*b*) for the words "two thousand rupees", the words "one lakh rupees" shall be substituted;

(*c*) for the words "seventy-five rupees", the words "one thousand rupees" shall be substituted;

(*d*) for the words "one thousand rupees", the words "twenty-five thousand rupees" shall be substituted;

(*e*) for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of section 94.

31. In section 94 of the principal Act, in sub-section (*1*),—

(*i*) for the words "six months", the words "three years" shall be substituted;

(*ii*) for the words "two hundred rupees", wherever they occur, the words "ten thousand rupees" shall be substituted;

(*iii*) for the words "five thousand rupees", the words "two lakhs rupees" shall be substituted;

(*iv*) for the words "two thousand rupees", the words "thirty-five thousand rupees" shall be substituted;

(*v*) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 95.

32. In section 95 of the principal Act, for the words "three months" and "five hundred rupees", the words "six months" and "ten thousand rupees" shall, respectively, be substituted.

Amendment of section 96.

33. In section 96 of the principal Act, for the words "three months" and "five hundred rupees", the words "six months" and "ten thousand rupees" shall, respectively, be substituted.

Insertion of new section 96A.

34. After section 96 of the principal Act, the following section shall be inserted, namely:—

Penalty for contravention of the provisions of sections 41B, 41C and 41H.

"96A. (*1*) Whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made thereunder, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to two lakhs rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(*2*) If the failure or contravention referred to in sub-section (*1*) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to ten years.".

Amendment of section 97.

35. In section 97 of the principal Act, in sub-section (*1*), for the words "twenty rupees", the words "five hundred rupees" shall be substituted.

Amendment of section 98.

36. In section 98 of the principal Act, for the words "one month" and "fifty rupees", the words "two months" and "one thousand rupees" shall, respectively, be substituted.

Amendment of section 99.

37. In section 99 of the principal Act, for the words "fifty rupees", the words "one thousand rupees" shall be substituted.

Omission of section 100.

38. Section 100 of the principal Act shall be omitted.

Insertion of new section 104A.

39. After section 104 of the principal Act, the following section shall be inserted, namely:—

Onus of proving limits of what is practicable, etc.

"104A. In any proceeding for an offence for the contravention of any provision of this Act or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or, requirement, to prove that it was not reasonably practicable or, as the case may be, all practicable measures were taken to satisfy the duty or requirement.".

Insertion of new section 106A.

40. In Chapter X of the principal Act, after section 106, the following section shall be inserted, namely:—

Jurisdiction of a court for entertaining proceedings, etc., for offence.

"106A. For the purposes of conferring jurisdiction on any court in relation to an offence under this Act or the rules made thereunder in connection with the operation of any plant, the place where the plant is for the time being situate shall be deemed to be the place where such offence has been committed.".

Insertion of new section 11A.

41. After section 111 of the principal Act, the following section shall be inserted, namely:—

Right of workers, etc.

"111A. Every worker shall have the right to—

(*i*) obtain from the occupier, information relating to workers' health and safety at work,

(*ii*) get trained within the factory wherever possible, or, to get himself sponsored by the occupier for getting trained at a training centre or institute, duly approved by the Chief Inspector, where training is imparted for workers' health and safety at work,

(*iii*) represent to the Inspector directly or through his representative in the matter of inadequate provision for protection of his health or safety in the factory.".

Amendment of section 115.

42. Section 115 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and,—

(*a*) in sub-section (*1*) as so re-numbered, for the words "three months", the words "forty-five days" shall be substituted;

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.".

Insertion of new section 118A.

43. After section 118 of the principal Act, the following section shall be inserted, namely:—

Restriction on

"118A. (*1*) Every Inspector shall treat as confidential the source

of any complaint brought to his notice on the breach of any provision of this Act. dis-closure of infor-mation.

(2) No inspector shall, while making an inspection under this Act, disclose to the occupier, manager or his representative that the inspection is made in pursuance of the receipt of a complaint:

Provided that nothing in this sub-section shall apply to any case in which the person who has made the complaint has consented to disclose his name.".

44. In section 119 of the principal Act, the words "or any other law for the time being in force" shall be inserted at the end. Amend-ment of section 119.

45. Before the Schedule to the principal Act, the following Schedules shall be inserted, namely:— Insertion of new Schedules.

"THE FIRST SCHEDULE

[*See section* 2 (*cb*)]

LIST OF INDUSTRIES INVOLVING HAZARDOUS PROCESSES

1. Ferrous Metallurgical Industries

-Integrated Iron and Steel

Ferrow-alloys

—Special Steels

2. Non-ferrous Metallurgical Industries

—Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium

3. Foundries (ferrous and non-ferrous)

—Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting.

4. Coal (including coke) industries

- Coal, Lignite, Coke, etc.

--Fuel Gases (including Coal Gas, Producer Gas, Water Gas)

5. Power Generating Industries

6. Pulp and paper (including paper products) industries

7. Fertiliser Industries

—Nitrogenous

—Phosphatic

—Mixed

8. Cement Industries

—Portland Cement (including slag cement, puzzolona cement and their products)

9. Petroleum Industries

—Oil Refining

—Lubricating Oils and Greases

10. Petro-chemical Industries

11. Drugs and Pharmaceutical Industries

-Narcotics, Drugs and Pharmaceuticals

12. Fermentation Industries (Distilleries and Breweries)

13. Rubber (Synthetic) Industries

14. Paints and Pigment Industries

15. Leather Tanning Industries

16. Electro-plating Industries

17. Chemical Industries

-Coke Oven By-products and Coaltar Distillation products

-Industrial Gases (nitrogen, oxygen, acetylene, argon, carbondioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.)

Industrial Carbon

-Alkalies and Acids

-Chromates and dichromates

-Leads and its compounds

-Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)

-Electrothermal products (artificial abrasive, calcium carbide)

-Nitrogenous compounds (cyanides, cyanamides, and other nitrogenous compounds)

-Phosphorous and its compounds

-Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)

-Explosives (including industrial explosives and detonators and fuses)

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries

19. Synthetic Resin and Plastics

20. Man-made Fibre (Cellulosic and non-cellulosic) Industry

21. Manufacture and repair of electrical accumulators

22. Glass and Ceramics

23. Grinding or glazing of metals

24. Manufacture, handling and processing of asbestos and its products

25. Extraction of oils and fats from vegetable and animal sources

26. Manufacture, handling and use of benzene and substances containing benzene

27. Manufacturing processes and operations involving carbon disulphide

28. Dyes and Dyestuff including their intermediates

29. Highly flammable liquids and gases

THE SECOND SCHEDULE

(See section 41F)

PERMISSIBLE LEVELS OF CERTAIN CHEMICAL SUBSTANCES IN WORK ENVIRONMENT

Substance	Permissible limits of exposure			
	Time-Weighted average Concentration (8 hrs)		Short-term exposure limit (15 min)	
	ppm	mg/m³	ppm	mg/m³
Acetaldehyde	100	180	150	270
Acetic Acid	10	25	15	37
Acetone	750	1780	1000	2375
Acrolein	0.1	0·25	0.3	0.8
Acrylonitrile—Skin	·2	4·5	..	..
Aldrin—Skin	..	0·25	..	0·75
Allyl Chloride	1	3	2	6
Ammonia	025	18	35	27
Aniline—Skin	2	10	5	20
Anisidine (o=,Pisoners)—Skin	0·1	0·5	..	..
Arsenic & compounds (as As)	..	0·2	..	..
Benzene	10	20	25	75
Beryllium	..	0.002	..	..
Bornon Trifluoride	0·1	0·3	..	..
Bromine	0.1	0.7	0.3	2
Butane	800	1900	..	..
a Butanon (Methylethyle Ketone-MEK)	200	590	300	885
n-Butyl acetate	150	710	200	950
n-Butyl alcohol—skin	C50	C150	..	..
sec/tert Butyl acetate	200	950	250	1190
Butyl Mercaptan	0·5	1.5	.	..
Cadmium-dust and salts (as Cd)	..	0·05	.	0 2
Calcium oxide	..	2	.	..
Carbaryl (sevin)	..	5	.	10
Carbofuran (Furadan)	..	0 1	.	..
Carbon disulphide—skin	10	30	..	.
Carbon monoxide	50	40	400	440
Carbon te trachloride—skin	m5	30	20	12[illegible]
Carbonyl Chloride (Phosgene)	0 1	0·4	..	..

	ppm	mg/m³	ppm	mg/m³
Chlorobenz·ne (monochloro-benzene) .	75	350	..	..
Chloridane – skin	..	0·5	..	2
Chlorine	1	3	3	9
Chloroform	10	50	50	225
bis-Chloromethyl ether . . .	0·001	0·005	..	..
Chromic acid and chromates (as Cr) .	..	0·05	..	..
Chromous Salts (as Cr) . . .	..	0.05	..	..
Copper fume	..	0·2	..	..
Cotton dust, raw	..	0·2	..	0·6
Cresol, all isomers– skin . . .	5	22	..	..
Cyanides (as CN)– skin . . .	.	5	..	..
Cyanogen	10	20	..	..
DDT (Dichlorodiphenyl Trichloroethane)	..	1	..	3
Demeton– skin	0.01	0·1	0.03	0.3
Diazinon– skin	..	0·1	..	0·3
Dibutyl Phythalate	..	5	..	10
Dichlorvos (DDVP)—skin	0.1	1	0.3	3
Dieldrin—skin	..	0·25	..	0.75
Dinitiobenzene (all isomers—skin) . . .	0.15	1	0·5	3
Dinitrotoluene—skin	..	1·5	..	5
Diophenyl	0·2	1·5	0·6	4
Endosulfan (Thiodan)—skin	.	0·1	..	0·4
Endrin – skin	..	0.1	..	0·3
Ethyl acetate	400	1400	...	..
Ethyl alcohol	1000	1900	..	..
Ethylamin	10	18	..	..
Flourides (as F)	..	2·5	..	..
Flourine	1	2	2	4
Formic Acid	5	9	..	..
Hydrazine—skin	0·1	0·1	..	..
Hydrogen Chloride	C5	C7	..	..
Hydrogen Cyanide—skin	0.1	C10	..	..
Hydrogen Flouride (as F)	3	2.5	6	5
Hydrogen Peroxide	1	1·5	2	3
Hydrogen Sulphide	10	14	15	21
Gasoline	300	900	500	1500
Iodine	C01	C1	..	..
Iron Oxide Fume (Fe_2O_3) (as Fe) . . .	..	5	..	10
Isoamyl acotate	100	525	125	655

	ppm	mg/m³	ppm	mg/m³
Isoamyl alcohol	100	300	125	450
Isobutyl alcohol	50	150	75	225
Lead, inorg. fumes and dusts (as Pb)	..	0·15	..	0.45
Lindane– skin	..	0·5	..	1·5
Malathion– skin	..	10	..	..
Manganese (as Mn) dust and compounds	..	C05	..	..
Fume	..	1	..	3
Mercury (as Hg) —skin Alkyl compounds	..	0·01	..	0.03
All forms except alkyl vapour	..	0.05	..	..
Aryl and inorganic compounds	..	0.1	..	..
Methyl alcohol (methonol)—skin	200	260	250	310
Methyl cellosolve-skin (2 methoxy ethanol)	5	16	..	..
Methyl isobutyl Ketone –skin	50	205	75	300
Methyl Isocyanate	0.02	0·05	..	..
Naphthalene	10	50	15	75
Nickel carbonyl (as Ni)	0.05	0.35	..	..
Nitric acid	2	5	4	10
Nitric oxide	25	30	35	45
Nitrobenzene—skin	1	5	2	10
Nitrogen dioxide	3	6	5	10
Oil mist, minerals	..	5	..	10
Ozone	0·1	0·2	0·3	0·6
Parathion—skin	..	0·1	..	0·3
Phenol—skin	5	19	10	38
Phorate (Thimet)—skin	..	0·05	..	0·2
Phosgene (Carbonyl Chloride)	0·1	0·4	..	..
Phosphine	0·3	0·4	1	1
Phosphorus (yellow)	..	0·1	..	0·3
Phosphorus pentachloride	0·1	1	..	..
Phosphorus trichloride	0·2	1·5	0·5	3
Picric acid –skin	..	0·1	..	0·3
Pyridine	5	15	10	30
Silane (silicon tetrahydride)	5	7	..	..
Sodium hydroxide	..	C2	..	..
Syrene, monomer (phanylethylene)	50	215	100	425
Sulphur dioxide	2	5	5	10

	ppm	mg/m³	ppm	mg/m³
Sulphur hexafluoride	1000	6000	1250	7500
Sulphuric acid		1	..	..
Toluene (Tuluol)	100	375	150	560
o-Tuluidine—skin	2	9	..	..
Tributyl phosphate	0·2	2·5	0·4	5
Trichloroethylene	50	270	200	1080
Uranium, natural (as U)	..	0·2	..	0·5
Vinyl chloride	5	10	..	..
Welding fumes	..	5	..	..
Xylene (o-, m-, P-isomers)	100	435	150	655
Zironium compounds (as Zr)	..	5	..	10

C denotes ceiling limit.

*Not more than 4 times a day with at least 60 min. interval between successive exposures.

Substance	Permissible time-weighted average concentration (8 hours)
(i) Silica	
(a) Crystalline	
(b) Quartz	
(1) In terms of dust count	$\frac{10600}{\% \text{ Quartz}+10}$ mppcm
(2) In terms of respirable dust	$\frac{10}{\% \text{ respirable quartz}+2}$ mg/m³
(3) In terms of total dust	$\frac{10}{\% \text{ quartz}+3}$ mg/m³
(ii) Cristabalite	Half the limits given against quartz.
(iii) Tridymite	Half the limits given against quartz.
(iv) Silica fused	Same limit as for quartz.
(v) (a) Tripoli	Same limit as in formula in item 2 given against quartz.
(b) Amorphous	705 mppcm.".

Amendment of the existing Schedule

46. The existing Schedule to the principal Act shall be re-numbered as the Third Schedule and in the Third Schedule as so re-numbered, after entry "22", the following entries shall be inserted, namely:—

"23. Beriyllium poisoning,

24. Carbon monoxide,

25. Coal miners' pnoumoconiosis,

26. Phosgene poisoning,

27. Occupational cancer,

28. Isocyanates poisoning,

29. Toxic nephritis.".

STATEMENT OF OBJECTS AND REASONS

The Factories Act, 1948 provides for the health, safety, welfare and other aspects of workers in factories. The Act is enforced by the State Governments through their Factory Inspectorates. The Act also empowers the State Governments to frame rules, so that the local conditions prevailing in the State are appropriately reflected in the enforcement. The Act was last amended in 1976 for strengthening the provisions relating to safety and health at work, extending the scope of the definition of "workers", providing for statutory health surveys, and requiring appointment of safety officers in large factories.

2. After the last amendment to the Act, there has been substantial modernisation and innovation in the industrial field. Several chemical industries have come up which deal with hazardous and toxic substances. This has brought in its train problems of industrial safety and occupational health hazards. It is, therefore, considered necessary that the Act may be appropriately amended, among other things, to provide specifically for the safeguards to be adopted against use and handling of hazardous substances by the occupiers of factories and the laying down of emergency standards and measures. The amendments would also include procedures for siting of hazardous industries to ensure that hazardous and polluting industries are not set up in areas where they can cause adverse effects on the general public. Provision has also been made for the workers' participation in safety management.

3. Opportunity has been availed of to make the punishments provided in the Act stricter and certain other amendments found necessary in the implementation of the Act.

4. The Bill seeks to achieve the above objects.

NEW DELHI; PURNO A. SANGMA.

The 24th November, 1986.

FINANCIAL MEMORANDUM

New section 41D inserted under clause 20 of the Bill enables the Central Government to appoint Enquiry Committees in the event of the occurrance of an extraordinary situation involving a factory engaged in a hazardous process and new section 41E inserted by that clause empowers the Central Government to direct the Director-General, Factory Advice Service and Labour Institute or any other specialised institution to lay down emergency standards where no standards of safety have been specified in respect of a hazardous process or in cases of hazardous processes where the standards so specified are inadequate.

These provisions when implemented would involve certain expenditure out of the Consolidated Fund of India. However, it is not possible to give any specific figures of expenditure, as that would depend on the specific nature of enquiry to be instituted, the dimension of the problem and the amount of work to be done either by the Director-General, Factory Advice Service and Labour Institute or by the specialised institution.

The Bill does not involve any other expenditure of recurring or non-recurring nature out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to insert two new sections in the Factories Act, 1948 (hereafter referred to as the said Act). The new section 7A lays down the general duties of the occupier of a factory for ensuring health, safety and welfare at work of all workers in the factory. Sub-section (3) of section 7A empowers the State Government to make rules specifying the cases where the occupier shall prepare the statement or revision of the statement under that sub-section and the manner in which such statement or revision shall be brought to the notice of the workers.

2. Clause 6 of the Bill seeks to amend section 13 of the said Act and empowers the State Government to make rules for the maintenance of records in relation to measuring instruments in the factory.

3. Clause 19 of the Bill seeks to substitute section 38 of the said Act. Sub-section (3) of section 38 empowers the State Government to make rules in respect of any factory or class or description of factories, requiring measures to be adopted for the prevention and control of fire in a factory.

4. Clause 20 of the Bill seeks to insert a new Chapter IV A after Chapter IV of the said Act. The new Chapter makes provision relating to hazardous processes. Under that Chapter the State Government is empowered to make rules for specifying the form in which an application for the establishment of a factory involving hazardous process is to be made [section 41A(2)], the manner in which the occupier of a factory involving hazardous processes should disclose the information regarding the danger, including health hazards and measures to overcome the same [section 41B(1)], the intervals within which the occupier has to inform the Chief Inspector regarding the changes he has made about the detailed policy [section 41B(2)], the manner in which the occupier is to publicise the measures for the handling of usage, transport, storage and disposal of hazardous substances [section 41B(7)], the conditions subject to which the records in a factory shall be made accessible to the workers by the occupier [section 41C(i)], the manner in which the persons with special qualifications and experience appointed to supervise the handling of hazardous substances within a factory, to be protected [section 41C(ii)] and the manner in which every worker is to be subjected to medical examination while continuing in the job and after he has ceased to be assigned that job [section 41C(iii)].

5. Clause 26 of the Bill seeks to insert a new section 87A which empowers Inspectors of the factory to prohibit employment of persons on account of imminent danger till the danger is removed. It empowers the State Government to make rules specifying the manner in which the occupier is to provide alternative employment.

6. All the above matters are matters of detail or procedure and, as such, the delegation of legislative power involved is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI.